

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GABRIEL HERNANDEZ, et al.,)
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 Plaintiffs,)
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 v.)
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 CREATIVE CONCEPTS, INC., et al.,)
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 Defendants.)
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2:10-cv-02132-PMP-LRL

O R D E R

Before the court is plaintiffs Gabriel Hernandez, et al's Motion To Compel (#37). Defendant NPL Construction Co. filed an Opposition (#41). Plaintiffs did not file a Reply.

In plaintiffs' motion to compel (#37), they ask the court to require NPL to "participate in a Rule 26(f) conference," "make full disclosures of all information required by...Rule 26 on an expedited basis," and to "respond to the [p]laintiffs' outstanding written discovery." Additionally, the plaintiffs assert that the court should impose sanctions against defendant NPL for refusing to engage in a Rule 26 conference. (#37). In defendant's opposition, it asserts that the court should order the parties to conduct the Rule 26 conference *after* the court has ruled upon the motion for summary judgment (#42) it filed in conjunction with its opposition. (#41). Further, it contends that since the parties have not conducted a Rule 26 conference, plaintiffs' requests for disclosures and responses to discovery are premature. *Id.*

Prior to plaintiffs filing the present motion, defendant NPL asked the court to extend the time period for the Rule 26 conference until after the court ruled upon its motion for summary judgment. (#33). The court *denied* defendant's request and ordered the parties to conduct their rule 26(f) conference no later than September 9, 2011. (#46). Thus, plaintiffs' request relating to the Rule 26 conference is moot.

1 Pursuant to Federal Rule of Civil Procedure 26(d)(1), “[a] party may not seek discovery from
2 any source before the parties have conferred as required under Rule 26(f)...” Further, Rule 26(a)(1)(C)
3 provides that “[a] party must make initial disclosures *at* or within 14 days *after* the parties’ Rule 26 (f)
4 conference...” Rule 26(a)(1)(C)(emphasis added). Therefore, as the parties had not conducted a Rule
5 26(f) conference when plaintiffs filed their motion seeking initial disclosures and responses to
6 discovery, the motion was premature. *Id.* In this light, the court is not inclined to impose sanctions
7 upon defendant.

8 Accordingly, and for good cause shown,

9 IT IS ORDERED that plaintiffs’ Motion To Compel (#37) is denied.

10 IT IS FURTHER ORDERED that plaintiffs’ request for sanctions is denied.

11 DATED this 3rd day of October, 2011.

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14 **LAWRENCE R. LEAVITT**
15 **UNITED STATES MAGISTRATE JUDGE**
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